

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TOMMY LEE CROW JR.,

Petitioner,

v.

RON HAYES,

Respondent.

CASE NO. C16-5277 RJB-JRC

REPORT AND RECOMMENDATION

NOTED: AUGUST 26, 2016

The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

On April 11, 2016 petitioner filed a petition and paid his filing fee. Dkt. 1. On June 21, 2016, petitioner filed a motion for leave to proceed *in forma pauperis* (IFP). Dkt. 9. On that same day, petitioner filed an amended petition. Dkt. 10. On July 15, 2016, the Court ordered petitioner to show cause on or before August 12, 2016 why his IFP application should not be denied. Dkt. 12. On July 21, 2016, petitioner responded to the order to show cause, explaining he had paid the filing fee on April 11, 2016 and offered to produce the Receipt # TAC013866.

Dkt. 13. Because petitioner had already paid his filing fee of \$5.00 on April 11, 2016, the Court should deny his IFP motion as moot.

### DISCUSSION

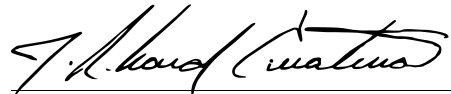
A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Petitioner paid the \$5.00 filing fee on April 11, 2016. See Dkt. 1, Receipt # TAC013866. Therefore, his IFP motion is moot.

### CONCLUSION

Because petitioner paid the filing fee, the undersigned recommends that the Court deny his IFP motion as moot. Dkt. 9.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), Petitioner shall have fourteen (14) days from service of this Report and Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed set this matter for consideration on August 26, 2016 as noted in the caption.

Dated this 2<sup>nd</sup> day of August, 2016.



J. Richard Creatura  
United States Magistrate Judge